

Public Chapter 558

HOUSE BILL NO. 1691

By Representative Head

Substituted for: Senate Bill No. 1771

By Senator Rochelle

AN ACT to amend Tennessee Code Annotated, Title 2, Chapters 2, 3, 4, 5, 6, 7, 10, 12, and 13; and Title 5, Chapter 1, relative to the election process.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-3-104, is amended by deleting the words "in precincts equipped with one (1) voting machine" in the first sentence and substituting instead the words, "per voting machine". The Section is further amended by deleting the second sentence in its entirety.

SECTION 2. Tennessee Code Annotated, Section 2-3-204, is amended by designating the existing language in subsection (b) as subsection (c) and by adding a new subsection (b) thereto, as follows:

(b) Resolutions, ordinances or petitions requiring the holding of elections on questions submitted to the people which are to be held with the regular August election, the regular November election or the Presidential Preference Primary shall be filed with the County Election Commission not less than sixty (60) days prior to said election.

SECTION 3. Tennessee Code Annotated, Section 2-13-204(c) is amended by deleting the word "twentieth" and substituting instead the word "thirtieth".

SECTION 4. Tennessee Code Annotated, Section 2-5-102(b) is amended by adding a new subdivision (5) thereto, as follows:

(5) Nominating petitions shall not be issued by any registrar-at-large, deputy registrar, County Election Commissioner or employee of the coordinator's office more than ninety (90) days before the qualifying deadline for the office for which the petition is issued.

SECTION 5. Tennessee Code Annotated, Section 2-5-208(h) is amended by deleting the subsection in its entirety and substituting instead the following:

(h) The names of presidential candidates shall be arranged according to political parties, and followed by the words, (giving the name) for President and (giving the name) for Vice President. Names of electors need not appear on the ballot.

SECTION 6. Tennessee Code Annotated, Section 2-3-101(a) is amended by adding the following sentence after the third sentence of the subsection:

If no accessible polling place is available within the precinct, or, within the 1/2 mile limit outside the precinct, with the approval of the State Coordinator of Elections, the County Election Commission may designate a suitable place within three (3) miles.

SECTION 7. Tennessee Code Annotated, Section 2-3-103 is amended by deleting the words, numbers and punctuation "three thousand (3,000)" and substituting instead the words, numbers and punctuation "five thousand (5,000)".

SECTION 8. Tennessee Code Annotated, Section 2-7-116(a)(1)(A)(ii) is amended by deleting the words "son or daughter" and substituting instead the words and punctuation "son, daughter or grandchild".

SECTION 9. Tennessee Code Annotated, Section 2-7-116(a)(1)(B) is amended by deleting the words "son or daughter" and substituting instead the words and punctuation "son, daughter or grandchild".

SECTION 10. Tennessee Code Annotated, Section 2-6-202(a)(1) is amended by deleting the word, numbers and punctuation "sixty (60)" and substituting instead the word, numbers and punctuation "ninety (90)".

SECTION 11. Tennessee Code Annotated, Section 2-6-201(3)(B) is amended by deleting the section in its entirety and substituting instead the following:

RESIDENTS OF CERTAIN INSTITUTIONS. In the case of individuals who are full-time residents of any licensed nursing home, home for the aged or similar licensed institution providing relatively permanent domiciliary care, other than a penal institution, outside the voter's county of residence, the procedure for voting shall substantially follow the provisions established in §2-6-201(3)(A) for voters on the Permanent Absentee Voting Register or the voter may vote under the procedures established in §2-6-201(1) for voters outside of the county.

SECTION 12. Tennessee Code Annotated, Title 2, Chapter 6 is amended by adding a new Part 6 thereto, as follows:

2-6-601. Methods of voting at licensed nursing homes.-In the case of individuals who are full-time residents of any licensed nursing home, home for the aged or similar licensed institution providing relatively permanent domiciliary care, other than a penal institution, in the county of the voter's residence, the County Election Commission of each county shall send one (1) absentee voting deputy registrar representing the majority party and one (1) absentee voting deputy registrar representing the minority party to the institution for the purpose of processing, assisting the voter who may be entitled to assistance under §2-6-105 or §2-6-106, and attesting absentee ballot applications and ballots. Both absentee voting deputies shall attest the voter's ballot. The procedure for voting shall substantially follow the provisions for early voting established by Part 1 of this chapter and shall be provided to each facility stated above. The procedure for voting in this section shall be the only method by which individuals who are full-time residents of any licensed nursing home, home for the aged or similar licensed institution providing relatively permanent domiciliary care, other than a penal institution, may vote in an election.

SECTION 13. Tennessee Code Annotated, Section 2-2-112 is amended by deleting the section in its entirety.

SECTION 14. Tennessee Code Annotated, Section 2-6-502(c) is amended by deleting the word, number and punctuation “seven (7)” and substituting instead the word, number and punctuation “five (5)”.

SECTION 15. Tennessee Code Annotated, Section 2-6-109(c) is amended by deleting the word “booth” and substituting instead the word “place” and is further amended by deleting the second sentence in its entirety.

SECTION 16. Tennessee Code Annotated, Section 2-7-114(b)(1), is amended by deleting the words, number and punctuation “one (1) of the voting compartments” in the first sentence and substituting instead the words “a place where the voter may mark the ballot in complete secrecy and privacy”. The subsection is further amended by deleting the words “voting compartment” in the last sentence and substituting instead the words “place of secrecy and privacy”.

SECTION 17. Tennessee Code Annotated, Section 2-12-116(a) is amended by adding a new subdivision (15) thereto, as follows:

(15) The commission shall be responsible for maintaining the security of the election commission office and any other rooms or facilities it may use in the performance of its duties, including all locks and keys. The Commission may delegate this responsibility to the registrar at large.

SECTION 18. Tennessee Code Annotated, Section 2-6-104(c) is amended by deleting the punctuation at the end of the sentence and adding the following new language:

“and shall also provide maximum security that allows no other person, except for persons designated by the election commission or the registrar at large, to have access to the room or facility in which the voting machines, ballots and other election supplies are stored.”

SECTION 19. Tennessee Code Annotated, Section 2-7-104 is amended by adding a new subdivision (e) thereto, as follows:

(e) Poll watchers observing the duties of the absentee counting board shall not leave the room, or place of counting, after the actual counting of the ballots has begun.

SECTION 20. Tennessee Code Annotated, Section 2-6-201(3)(A) is amended by deleting the words, numbers and punctuation “seven (7)” in the third sentence and substituting instead the words, numbers and punctuation “five (5)”.

SECTION 21. Tennessee Code Annotated, Section 2-2-101(2) is amended by deleting the subsection in its entirety and substituting instead:

(2) “Administrator of Elections” means the chief administrative officer appointed by the County Election Commission. The “Administrator of Elections” created by this section is the immediate successor to the “Registrar-at-Large” for each county. Wherever in the Tennessee Code the registrar-at-large is referred to, the term “Administrator of Elections” shall be substituted.

SECTION 22. Tennessee Code Annotated, Section 2-2-101 is amended by adding a new subsection (3) thereto, as follows:

(3) “Deputy” means all office personnel or clerical assistants other than the Administrator of Elections and is the immediate successor to “deputy

registrar". Wherever in the Tennessee Code a deputy registrar is referred to, the term "deputy" shall be substituted.

SECTION 23. Tennessee Code Annotated, Section 2-10-101(b) is amended by deleting the words, numbers and punctuation "one hundred dollars (\$100)" and substituting instead the words, numbers and punctuation "five hundred dollars (\$500)"; and, is further amended by deleting the words, numbers and punctuation "fine hundred dollars (\$500)" at the end of the sentence and substituting instead the words, numbers and punctuation "one thousand dollars (\$1,000)".

SECTION 24. Tennessee Code Annotated, Section 5-1-104(b)(2) is amended by deleting the words, numbers and punctuation "forty-five (45) days" wherever it appears in the subsection and substituting instead the word, numbers and punctuation "sixty (60)".

SECTION 25. Tennessee Code Annotated, Section 5-1-104(b)(3) is amended by deleting the word "fortieth" and substituting instead the words "fifty-fifth".

SECTION 26. Tennessee Code Annotated, Section 2-4-102(a)(1) is amended by deleting the subsection in its entirety and substituting instead the following:

(a)(1) Not more than thirty (30) days nor less than ten (10) days before each election, the County Election Commission shall appoint the following minimum number of election officials to hold elections at each polling place: one (1) officer of elections, and three (3) judges. Two (2) of the judges appointed hereunder shall concurrently serve as precinct registrars, in accordance with §2-12-202. In precincts where voting machines are used, any judge not appointed to serve as a precinct registrar shall concurrently serve as a machine operator for that polling place. Additional precinct registrars and machine operators may be appointed in accordance with §2-4-105 as necessary to adequately staff the polling place. One (1) machine operator may be appointed to operate no more than two (2) voting machines.

SECTION 27. Tennessee Code Annotated, Section 2-4-107 is amended by deleting the words, numbers and punctuation "at least ten (10) days before the date of each election".

SECTION 28. Tennessee Code Annotated, Section 2-4-110 is amended by deleting the words, numbers and punctuation "five (5)" and substituting instead the words, numbers and punctuation "twenty (20)".

SECTION 29. Tennessee Code Annotated, Section 2-7-105(b)(1) is amended by deleting the subsection in its entirety and substituting instead the following:

(b)(1) If any election official fails to appear at the polling place, the officer of elections or, in such officer's absence, a majority of the election officials attending shall select other persons to fill the vacancies. The persons selected shall be registered voters of the county for which they are to serve. Any persons selected to fill a vacancy shall be, to the extent practicable, of the same political party as the person in whose place such person was selected.

SECTION 30. Tennessee Code Annotated, Section 2-2-137(c) is amended by deleting the section in its entirety and by substituting instead the following:

(c) The coordinator of elections in consultation with the State Election Commission shall determine whether a supplemental system meets the requirements of this section and whether such system is compatible with any

statewide system being operated by the Secretary of State's office. The coordinator of elections shall establish minimum requirements for certification that allow the County Election Commissions to perform the duties required by this title.

SECTION 31. Tennessee Code Annotated, Section 2-7-104(a), is amended by deleting the third sentence and by substituting instead the following:

Each candidate in primary elections and each independent candidate in general elections may appoint one or more poll watchers for each polling place; provided, however, at any given time, each such candidate shall have not more than one such poll watcher on duty at each polling place.

SECTION 32. Tennessee Code Annotated, Section 2-7-104(b), is amended by deleting the final sentence and by substituting instead the following:

In addition, each candidate in a general election may appoint one or more poll watchers for each polling place; provided, however, at any given time, each such candidate shall have not more than one such poll watcher on duty at each polling place.

SECTION 33. Tennessee Code Annotated, Title 2, Chapter 5, is amended by adding the following as appropriately numbered new parts:

(a) Any governmental entity having a charter provision for a petition for recall, referendum or initiative or any person acting pursuant to such charter provision shall meet the requirements of this section.

(b) Before a petition may be circulated, at least one (1) registered voter of the city or county shall file with the County Election Commission:

(1) the proper form of the petition; and

(2) the text of the question posed in the petition.

(c) The County Election Commission shall certify whether the petition is in proper form within thirty (30) days after the filing of the documentation required by subsection (b). The individual(s) filing the petition shall have fifteen (15) days to cure any defects in the documentation required by subsection (b) by filing revised documentation in proper form with the County Election Commission. The County Election Commission shall determine within five (5) days whether or not the revised documentation shall be certified for final approval.

(d) Petitions shall be signed by at least fifteen percent (15%) of those registered to vote in the municipality or county. The disqualification of one (1) or more signatures shall not render a petition invalid, but shall disqualify such signatures from being counted towards the statutory minimum number of signatures required in this section.

(e) Upon filing, each completed petition shall contain the following:

(1) the full text of the question attached to each petition;

(2) the genuine signature and address of registered voters only, pursuant to the requirements of Tennessee Code Annotated, Section 2-1-107;

(3) the printed name of each signatory; and

(4) the date of signature.

(f) (1) Completed petitions shall be filed with the County Election Commission within seventy-five (75) days after final certification by the County Election Commission as required by subsection (c).

(2) In addition, a petition for recall, referendum or initiative shall be filed at least sixty (60) days before a general municipal or county election may be held on the question contained in such petition. The question contained in a petition filed less than sixty (60) days before an upcoming general municipal or county election will be placed on the ballot of the following general municipal or county election.

(g) Any person may request either in person or in writing that the County Election Commission remove his or her name from a petition. Such request must be made within eight (8) days of filing of the completed petition and before final certification by the County Election Commission of the petition.

(h) The County Election Commission shall certify whether or not the completed petition meets all applicable requirements within thirty (30) days of filing of the completed petition.

(i) Upon certification by the County Election Commission pursuant to subsection (h), the election commission shall publish the question contained in the petition pursuant to § 2-12-111.

(j) This section shall control notwithstanding any statutory provision or charter provision of a municipality or county to the contrary. Provided, however, that any contrary charter provision of a municipality or county which is enacted after July 1, 1997, shall control with respect only to the requirements set forth in subsection (d) relating to the statutory minimum number of signatures required in a petition, and to the provisions of subsection (f)(1) relating to the seventy-five (75) day deadline for filing of a petition after final certification by the County Election Commission.

(k) If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

(l) This act shall control any petition with signatures filed with the County Election Commission on or after the effective date of this act.

SECTION 34. This act shall take effect upon becoming a law, the public welfare requiring it.